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**FEE TRANSMITTAL
For FY 2006**☒ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) 250.00**Complete if Known**

| | |
|----------------------|-------------------|
| Application Number | 10/034,720 |
| Filing Date | December 28, 2001 |
| First Named Inventor | Earl J. Braxton |
| Examiner Name | Charles Phillips |
| Art Unit | 3751 |
| Attorney Docket No. | NMC104A US |

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☒ Deposit Account Deposit Account Number: 22-0212 Deposit Account Name: VanOphem & VanOphem, P.C.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☒ Credit any overpayments**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION** (All the fees below are due upon filing or may be subject to a surcharge.)**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

| Application Type | FILING FEES | | SEARCH FEES | | EXAMINATION FEES | | Fees Paid (\$) |
|------------------|-------------|-----------------------|-------------|-----------------------|------------------|-----------------------|----------------|
| | Fee (\$) | Small Entity Fee (\$) | Fee (\$) | Small Entity Fee (\$) | Fee (\$) | Small Entity Fee (\$) | |
| Utility | 300 | 150 | 500 | 250 | 200 | 100 | 0 |
| Design | 200 | 100 | 100 | 50 | 130 | 65 | 0 |
| Plant | 200 | 100 | 300 | 150 | 160 | 80 | 0 |
| Reissue | 300 | 150 | 500 | 250 | 600 | 300 | 0 |
| Provisional | 200 | 100 | 0 | 0 | 0 | 0 | 0 |

2. EXCESS CLAIM FEES**Fee Description**

Each claim over 20 (including Reissues)

| Fee (\$) | Small Entity Fee (\$) |
|----------|-----------------------|
| 50 | 25 |

Each independent claim over 3 (including Reissues)

| | |
|-----|-----|
| 200 | 100 |
|-----|-----|

Multiple dependent claims

| | |
|-----|-----|
| 360 | 180 |
|-----|-----|

| Total Claims | Extra Claims | Fee (\$) | Fee Paid (\$) |
|--------------|--------------|----------|---------------|
| - 20 or HP = | x | | 0 |

HP = highest number of total claims paid for, if greater than 20.

| Indep. Claims | Extra Claims | Fee (\$) | Fee Paid (\$) |
|---------------|--------------|----------|---------------|
| - 3 or HP = | x | | 0 |

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

| Total Sheets | Extra Sheets | Number of each additional 50 or fraction thereof | Fee (\$) | Fee Paid (\$) |
|--------------|--------------|--------------------------------------------------|----------|---------------|
| - 100 = | / 50 = | (round up to a whole number) x | | 0 |

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

| Fees Paid (\$) |
|----------------|
| 0 |

Other (e.g., late filing surcharge): Appeal Brief

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| \$250.00 |
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SUBMITTED BY

| | | | |
|-------------------|------------------|-----------------------------------------|--------------------------|
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| Name (Print/Type) | Remy J. VanOphem | | Date 4/7/06 |

This collection of information is required by 37 CFR 1.126. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appellant No.: 10/034,720
Appellant: Earl J. Braxton
Filing Date: December 28, 2001
Title: Portable Toilet Shelter Having Improved Stackability

Art Unit: 3751
Examiner: Charles Phillips

Attorney Docket: NMC104A US

Appeal Brief under 37 CFR §41.37 & MPEP §1205.02

Mail Stop-Appeal Briefs- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is Brief is submitted as required under 37 C.F.R. §41.37 in support of an appeal from the final rejection of Claims 1-3, 5, 7, 8, 10, 12, 13, 15, 17 and 21 in this application. The aforesaid final rejection was mailed on October 17, 2005. A Notice of Appeal was submitted under a certificate of mailing pursuant to 37 C.F.R. §1.8(a), dated January 17, 2006.

The associated fee pursuant to 37 C.F.R. 41.20(b)(2) in the amount of \$250.00 is enclosed herewith. If any further fee is found to be due, the Commissioner is authorized to charge such fee to Deposit Account No. 22-0212.

REAL PARTY IN INTEREST

The real party in interest is Earl J. Braxton as the inventor named in this application.

RELATED APPEALS AND INTERFERENCES

There are no related appeals and interferences associated with the appealed application.

STATUS OF THE CLAIMS

Claims 1-5, 7-10, 12-15, and 17-21 are pending in the application. Of the above claims, Claims 4, 9, 14 and 18-20 are withdrawn from consideration. Claims 1-3, 5, 7, 8, 10, 12, 13, 15, 17 and 21, the finally rejected claims in this application are herein being appealed. Clean copies of the subject claims appealed, as they were amended during prosecution of this application, are set forth in the enclosed appendix attached hereto.

STATUS OF AMENDMENTS

No amendments to any of the claims in appeal have been made or requested since the date of the final rejection of such claims.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The invention in this application is a portable toilet shelter. Appellant's invention is directed to transporting problems associated with his earlier portable prior art toilet shelter, which is significantly more cumbersome to stack and fold for transporting as is the

collapsible enclosure as taught by the Dahl reference. As disclosed at page 4 of the application, a standard 53 foot long semi-trailer can accommodate approximately 150 portable shelters of the present invention as compared to 18-20 fully assembled prior art toilet shelters or approximately 75 toilet shelters of the inventor's prior Patent No. 4,493,118. To solve these problems, Appellant teaches a portable toilet shelter including the loop enclosure 22 (page 6, lines 21-22; lines 2-4 of latest specification amendment) that is mountable to a base 18 (page 6, line 21; line 2 of latest specification amendment), and is adapted to receive a roof 24 (page 6, line 22; line 4 of the latest specification amendment). The loop enclosure includes planar opposed end walls 30, 32 (page 7, line 11; line 2 of the latest specification amendment) each having opposed longitudinally oriented edges (Figure 4). Opposed planar side walls 34, 36 (page 7, line 12; line 3 of latest specification amendment) are positioned between the opposed planar end walls 30, 32, with each of the planar side walls 34, 36 having opposed longitudinally oriented edges (Figure 4). Flexible hinges 14 (page 6, line 13) connect the edges of the planar side walls 34, 36 to respective adjacent edges of the planar end walls 30, 32 to complete the loop enclosure 22. The loop enclosure 22 is lifted away from the base and placed on its side permitting it to automatically fold flat on the ground to a double thickness layer, as depicted in Figures 8 and 9 of the application. When the loop enclosure 22 is placed on its side and permitted to collapse, the planar front and planar back end walls 30, 32 fold relatively towards their respective planar side walls 34, 36. In other words, the walls collapse towards one another such that the inside surface of the planar front end wall overlays one of the inside surfaces of one of the planar side walls (page 10, lines 14-18), while the inside surface of the planar back end wall

overlays the other of the inside surfaces of the planar side walls. Additionally and alternatively, according the collapsed portable toilet shelter, the roof and floor can be collapsed and folded together with the loop enclosure (Figure 9A). Once the loop enclosure is set aside or loaded on a truck in its stackable condition, the empty toilet unit is removed from the base and loaded to a truck and the base is then lifted from the ground and loaded to the truck. Accordingly, the compact collapsed loop enclosure can be stacked in any convenient manner to maximize the number of units transportable by a truck.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Issue No. 1- Is the rejection of Claims 1-2, 5, 7, 10, 12, 15, 17 and 21, under 35 U.S.C. §103(a) as being unpatentable over the teachings of Dahl, U.S. Patent No. 2,820,256, taken in combination with the teachings of Tegg et al., U.S. Patent No. 4,744,111, proper as a matter of law?

Issue No. 2- Is the rejection of Claims 3, 8 and 13 under 35 U.S.C. §103(a) as being unpatentable over the teachings of Dahl, '256, in view of the Tegg et al., '111, and further in view of Braxton, U.S. Patent No. 4,380,836, improper as a matter of law?

ARGUMENT

Issue No. 1

In the final Office Action, the Examiner rejected Claims 1-2, 5, 7, 10, 12, 15, 17 and 21 under 35 U.S.C. §103(a) as being unpatentable over the teachings of Dahl '256 in view of the teachings of Tegg et al. '111.

Appellant's attorney respectfully traverses each of the 35 U.S.C. §103 rejections set forth herein in view of the claims as currently amended and for the reason that Appellant's invention is not an obvious improvement over the prior art.

With respect to the rejections under 35 U.S.C. §103, it is noted in MPEP §706 that the standard of patentability to be followed in the examination of a patent application is that which was enunciated by the Supreme Court in *Graham v. John Deere*, 148 USPQ 459 (1966), where the Court stated:

“Under Section 103, the scope and the content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved.”

Accordingly, to establish a prima facie case of obviousness, the Patent Office must; (1) set forth the differences in the claim over the applied references; (2) set forth the proposed modification of the references which would be necessary to arrive at the claimed subject matter; and (3) explain why the proposed modifications would be obvious. To satisfy step (3) above, the Patent Office must identify where the prior art provides a motivating suggestion, inference or implication to make the modifications proposed in step (2) above. *In re Jones*, 21 USPQ2d 1941(Fed. Cir. 1992).

The mere fact that the prior art may be modified by the Examiner does not make the modification obvious unless the prior art suggests the desirability for the modification. *In re Fritch*, 23 USPQ2d 1780 (Fed. Cir. 1992). In the present case, the Examiner has failed to make a proper prima facie showing of obviousness since the Examiner has failed to show how the prior art suggests the desirability of the proposed modification.

The Office Action fails to set forth a *prima facie* case of obviousness. In order to establish a *prima facie* case of obviousness according to MPEP §706.02(j), the cited references must teach or suggest all of Appellant's claim limitations, and there must be some suggestion or motivation to modify a reference or to combine teachings of each of the references.

The unobviousness of the present invention over the cited reference will become clear upon considering each of the problems that the prior art is directed to and the teachings each propose in order to solve this problem:

Dahl is directed to the general problem of the lack of ease of transportability of temporary toilet shelters. To solve this problem, Dahl proposes a light weight enclosure, which is of rugged construction and may be readily erected and collapsed into compact portable form for transportation from one site to another. The structure consists of four upright side walls each including a pair of wall sections on opposite sides of a central foldable dividing line that extend transversely around the enclosure. The side walls are foldable relative to each other along their longitudinal edges and the wall sections are foldable along the central foldable dividing line to form a compact stack of eight wall sections with the hinge strip 40 attached to wall sections 26 and 30 to enclose the remaining six wall sections. Such a stack is light enough and small enough to be carried by a passenger automobile and therefore may serve for family use as well as industrial use. Two adjacent sections of two adjacent side walls are detachable with respect to one another and are respectively at opposite sides of the stack and are interconnected by a double hinge of a width sufficient to extend across the thickness of six intermediate wall sections of the stack. The remaining wall sections are interconnected by transverse hinges. In the preferred practice of the invention, the enclosure

has a doorway on one of its four sides and a permanently hinged door for the doorway which is made in two sections lying on opposite sides of the central foldable dividing line to permit the desired collapse of the structure into the eight layer stack. Dahl teaches that it is highly desirable to have all eight of the wall sections interconnected to provide insurance against any section becoming separated, misplaced or lost. Such interconnection is also desirable to maintain the desired relationship among the various sections to prevent confusion that may be called by one section being inadvertently moved out of its normal place in the eight-section assembly. In the final step of the folding arrangement, as shown in Figure 3, the wall sections are folded down on itself using a hinge trip 40 thereby forming a stack of eight of the wall sections. It is apparent in this final folded state of the structure that double inch strip 40 is relatively wide to provide a web 55 of substantial width to unify the stack since it cooperates with the wall sections 26 and 32 enclosed the remaining six wall sections.

As pointed out by the Examiner, Figure 2 shows a step in the process of making an eight-layer stack where the enclosure is collapsed to a flat state. As clearly set forth in Dahl, this is not a transportable state nor is this a transportable planar state since Dahl clearly teaches at column 4, lines 13-38 that Figure 2 is only the first step in folding the structure for transportation. In this first step, the hinge strip 40 presents a serious problem if, as the Examiner contends, the stack is transportable. As is clear from Figure 3, since the hinge strip 40 must be long enough to cover all four thicknesses (see Figure 4) in its final fold transportable position, it will prevent the formation of a planar surface between the upper and lower wall sections because as shown in Figure 3, it extends above the upper surface of the two wall sections. In this state it will interfere with a stackable unit and prevent the stacked

walls from touching resulting in a greater stackable height thereby causing a smaller number of units to be loaded on a flat bed truck contrary to results in the objectives. Dahl teaches a second, as well as, a final step of forming a stack of eight of the wall sections and a double hinge strip 40 unifies the stack to enclose the remaining wall sections. In this continued formation, the latch means 60 of Figure 5 must be released so that wall section 30 and wall section 32 maybe folded on top of each other to enable the final fold to an eight layer stack. As is clearly taught in the Dahl reference, at column 3, lines 51-71, the latch means consists of a pair of latch arms 62 fixedly mounted on the opposite ends of a pin 64, that is journaled in the upper of the two wall sections. The pin 64 being fixedly attached to two discs centrically thereof to cause to the two discs gravitate to their effecting latching position shown in Figures 5, 7 and 8. Unfortunately, Dahl lacks any teachings whatsoever with respect to whether this latch means in any way effects the various folded states whether those of Figures 3 or 4. Clearly, in the view in Figure 6, the latch means 60 will prevent the wall sections from obtaining a planar state when collapsed wherein the thickness of each of the foldable walls is in direct contact with each other since the latch means 60 is between the planar walls whether considering the folded state of Figures 3 or 4. Accordingly, Dahl lacks the teachings of the wall sections being in direct contact with each other upon collapsing the toilet to a folded state and therefore a stackable height will be higher than the toilet of the present invention. The final transportable stack of eight sections permanently connected together in such a manner as to permit the sections to be stacked for transportation or to be unfolded for erection of the enclosure is taught at column 1, lines 51-55. Such teachings are contrary to Appellant's teachings and therefore could not possibly motivate a person skilled in the art to use Dahl's

teaching in an attempt to obviate Appellant's invention without the teachings necessary to accommodate the latch means 60 so as to enable a transportable two layer stacked arrangement having a thickness of one each of said planar end walls and one each of said planar side walls as clearly set forth in the claims.

Tegg et al., U.S. Patent No. 4,744,111, is directed to problems associated with portable toilet structures for outdoor concerts, athletic events, and the like. These portable units are cumbersome and must be transported in the assembled condition thereby limiting the number of units that may be transported by a carrier. Prior art knock down units have been proposed to permit a larger number of units to be transported on each carrier but disassembly and reassembly of these units is usually a time consuming operation. To solve this problem, Tegg et al. teaches a portable knock down toilet structure, which is readily assembleable into a complete unit, simple and inexpensive. The vertical walls are provided with slots in the edges thereof and U-shaped clamping members having pins which engage in the slots are utilized so that each clamping member releasably clamps the edges of the pair of adjacent walls. Further, the lower edges of portions of the vertical walls are provided with slots for quick releasable engagement with clips secured to the base to permit ready attachment and detachment of vertical walls to the base. The top wall is releaseably secured to the vertical walls by cam locks mounted on the vertical walls and engageable with the slots in the top wall. With this arrangement, a single operator may readily assemble and disassemble a plurality of the toilet structures only in a matter of minutes. Because of the construction of various components, the components may be stacked on a carrier vehicle to permit the transport of a large number of units, while minimizing the space requirements. For example, the side walls and rear walls

may be placed in a single stack, and the front walls with the attached doors may be placed in another. The bases may be arranged in stack relation, and the holding tank and other units may be arranged together. Damaged components such as a damaged vertical wall may be readily replaced without requiring replacement of the entire unit.

Braxton, U.S. Patent No. 4,380,836 is directed to problems associated with inefficiencies associated with shipping fully assembled portable toilet shelters.

To eliminate these problems, Braxton teaches a modular construction shelter having foldable walls, a removable roof, as well as a separate base member and the commode. Braxton teaches a collapsible portable toilet shelter having a base member, roof panel and foldable, collapsible, rectangular enclosure therebetween. Basically, the toilet shelter is assembled by placing the base member on a surface, on folding the rectangular enclosure, fitting the bottom of the rectangular enclosure to the base member, and placing the roof panel to the top of the rectangular enclosure, as well as fastening the parts to the toilet shelter together. The rectangular enclosure includes a front wall, a back wall, and bi-fold sidewalls. Each bi-fold side wall is composed of forward and rearward panels connected by a continuous hinge strip. The rectangular enclosure collapses when the side panels are swung inwardly such that the forward and rearward panels fold toward each other so that the front wall and back wall collapse together towards one another, sandwiched between the front and back wall are the side walls which collapse in a bi-fold manner to create a four layer stack for transportation purposes.

The invention in this application is a portable toilet shelter. Appellant's invention is directed to problems associated with his earlier portable prior art toilet shelter, which is

significantly more cumbersome to stack and fold for transporting as is the collapsible enclosure as taught in the Dahl reference. To solve this problem, Appellant teaches a portable toilet shelter including the loop enclosure that is mountable to a base, and is adapted to receive a roof. The loop enclosure includes planar opposed end walls each having opposed longitudinally oriented edges. Opposed planar side walls are positioned between the opposed planar end walls, with each of the planar side walls having opposed longitudinally oriented edges. Flexible hinges connect the edges of the planar side walls to respective adjacent edges of the planar end walls to complete the loop enclosure. The loop enclosure is lifted away from the base and placed on its side permitting it to automatically fold flat on the ground to a double thickness layer, as depicted in Figures 8 and 9 of the application. When the loop enclosure is placed on its side and permitted to collapse, the planar front and planar back end walls fold relatively towards their respective planar side walls. In other words, the walls collapse towards one another such that the inside surface of the planar front end wall overlays one of the inside surfaces of one of the planar side walls, while the inside surface of the planar back end wall overlays the other of the inside surfaces of the planar side walls. Additionally and alternatively, according the collapsed portable toilet shelter, the roof and floor can be collapsed and folded together with the loop enclosure. Once the loop enclosure is set aside or loaded on a truck in its stackable condition, the empty toilet unit is removed from the base and loaded to a truck and the base is then lifted from the ground and loaded to the truck. Accordingly, the compact collapsed loop enclosure can be stacked in any convenient manner to maximize the number of units transportable by a truck.

The differences between Appellant's invention and the prior art references cited by the Examiner in the rejection under 35 U.S.C. §103 are quite clear. The solutions taught by each of the references are directed to problems, in some cases, somewhat different than that described in Appellant's invention. For example, Dahl is directed to providing a light weight enclosure of the type which is simple and may be readily erected and also collapsed into a compact portable form by a single individual for transportation from one site to another. Tegg et al. is directed to problems associated with portable chemical toilet structures of the type, which are transported in an assembled condition thereby limiting the number of units, which may be transported by a carrier. Also, Tegg et al. is directed to damaged parts which can be easily replaced by his invention. Braxton, as in the current invention, is concerned about the inefficiencies of shipping the fully assembled portable toilet shelters. If, as the Examiner suggests, the teachings of Dahl are combined with Tegg et al. in an attempt to obviate Appellant's invention, it is clear from the teachings set forth in the references that the suggested combination would certainly not result in Appellant's invention for the simple reason that Tegg et al. suggests the use of multiple piece toilet shelters which are assembled on site while Dahl teaches the use of a readily collapsible eight layer stack which is not able to stack with the walls contacting each other because of the latch and erectable compact portable units which may be erected by a single individual. Accordingly, the objects of each of the references are contrary to each other and therefore there is absolutely no motivation, suggestion or inference whatsoever to combine the teachings of these two references in an attempt to obviate Appellant's invention. Further, although the Examiner alleges that Dahl suggests the claimed invention of Appellant's amended independent claims, except for a base

and a roof, the Appellant respectfully disagrees with the allegations of the Examiner for the simple reason that there are significant structural differences between Appellant's invention and the teachings of Dahl or the teachings of Tegg et al., or Braxton '836 or any combination thereof. All of the cited references fail to disclose, teach or suggest a loop enclosure collapsed to a final flat transportable stackable planar state having a thickness of about two of the walls thereof. Rather, the Dahl '256 patent teaches that the enclosure collapses to a final folded transportable flat state having a thickness of about eight of the walls thereof (Figure 4). Similarly the Dahl reference teaches the use of a double hinge 40, 55, as well as a latch means 60 which prevent the enclosure from having a folded planar transportable state, much less having a thickness of about two walls of the loop enclosure wherein the two layers stack with adjacent walls contacting each other. The double hinge 40, 55, as well as the latch means 60 projects upwardly when the first fold of either the two layer or the complete eight layer fold process occurs and thus does not enable the enclosure to fold to a flat state having a thickness of about two of the walls thereof contacting each other. This web 55, as well as the latch means 60 prevents adjacently stacked walls from being stacked flat atop one another. This is simply because the Dahl reference fails to teach an enclosure which is meant to fold flat to a final transportable thickness of about two walls thereof to take advantage of the cost savings associated therewith as clearly set forth in the specification at page 4.

“Approximately 150 portable toilet shelters of the present invention can be shipped on an standard 53 foot long semi-truck trailer, which is eight time the number of fully assembled shelters and two times the number of foldable prior art shelters that can be shipped on the same size truck trailer.”

Rather, Dahl teaches use of the double hinge 40, 55 and a latch means 60 to enable the Dahl enclosure to fold to a state having a thickness of eight of the wall sections (Column 3,

lines 1-3). Accordingly, it is clear, that the Dahl reference's objectives are contrary to Appellant's objectives and teachings and to its teachings are contrary or opposite of Appellant's teachings from the standpoint that the Dahl reference teaches a transportable state resulting in a thickness of eight folds of all sections with a latch means 60 extending outward from either of the walls 26, 28 or 30, 32 while Appellant's invention results in a transportable thickness of two folded stackable loop enclosure wherein the walls contact each other. The teachings of Tegg et al. add absolutely nothing to the teachings of Dahl in order to, in anyway whatsoever suggest, imply, infer or motivate to a person skilled in the art to teach Appellant's invention. In fact, in consideration of the Tegg et al. reference, which teaches away or opposite to Appellant's invention by teaching individual units which maybe replaced in case a repair is needed, it is clear that if any of the cited references teach away from the suggested combination, as set forth in the claims, the claimed invention is distinguishable over the combination of cited references (MPEP §2145).

Thus, even if the combination as suggested by the Examiner is somehow accomplishable, Appellant's claims set forth unobvious structural features over the proposed combination. Accordingly, the combination would necessary constitute claimed subject matter that is different and patentably distinct over the teachings of the prior art references.

One of ordinary skill in the art would have no basis for combining the teachings of Dahl and Tegg et al. references in order to attempt to obviate Appellant's invention, because there is no suggestion or motivation in this prior art to do so. It is well settled patent law that a sustainable obviousness rejection requires some teachings, suggestions or motivation to combine the references in order to obviate Appellant's invention. Here, the Examiner fails to

completely set forth any prima facie showing of obviousness since the final Office Action does not provide any suggestion for the desirability for the proposed combination. The fact that both references disclose a portable toilet is not, by itself, sufficient to selectively substitute parts of one reference for part of another to meet Appellant's novel invention as claimed. Moreover, the Office Action does not set forth any principle with specific understanding within the level of ordinary skill in the art that would have motivated a skilled artisan to even attempt to combine these cited references. Appellant respectfully submits that the Office Action's lack of indication anywhere in the record of the finding in the cited references of the suggestion for the desirability for a person skilled in the prior art to proceed contrary to the teachings of Dahl, and in fact, completely disregard the eight layer folded unit as set forth in the disclosure of Dahl so as to attempt to create Appellant's invention as claimed.

Regardless of the lack of the proper suggestion in the Office Action, the cited references themselves contain no suggestion whatsoever for combining the references that teach the invention as claimed according to Appellant's disclosure. In other words, there is nothing in the reference alone or together that suggests the claimed invention as a solution to the problem of a stackable enclosure with the significant cost savings experienced with Appellant's invention, and, in fact, it is indeed Appellant's invention, which creates a simple efficient solution to such problem. Not a single applied reference mentions the problems associated with enclosures that are not optimized for stackability. Significantly, Appellant specifically identifies the four-wall thickness of the collapsed structure of his own earlier patent as a problem to be solved. The Dahl enclosure teaches a collapsed enclosure having a

thickness of eight walls- four times as thick as that of the Appellant's current teachings and a latch means 60 extending from an outer wall of the eight wall stack. Therefore, absent the recognition of the problem identified by the Appellant, it would be impossible for its solution to be obvious to anyone, and the cited references cannot possibly suggest, singularly or in combination, a solution as novel as Appellant's invention.

In view of a lack of showing by the Examiner of a clear factual basis to support a conclusion that the invention is obviated by the cited references in the Office Action, a person of ordinary skill in the art would not seek to combine these references cited in the Office Action to produce the results that Appellant's invention claims and teaches. It is only through Appellant's own teachings and disclosure that one of ordinary skill in the art would appreciate the need for a portable toilet shelter having a base, a loop enclosure circumscribing the base, wherein the loop enclosure is collapsible to a stackable, folded state having a thickness of about two of the walls thereof. In other words, but for Appellant's disclosure, there is no teaching, suggestion, or motivation whatsoever to combine the teachings of Dahl and the teachings of the Tegg et al. patent in any way in order to obviate Appellant's invention. Accordingly, Appellant respectfully asserts that the Office Action is an example of hindsight reconstruction in an attempt to obviate Appellant's invention after having the benefit of reading Appellant's disclosure. One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the cited references to deprecate the claimed invention.

Appellant's invention is thus an unobvious improvement over the cited references and not an obvious modification or combination of any of the references of record in this application. When viewed singularly or collectively, none of the cited references disclose,

teach, or even suggest a portable toilet shelter having a base, a loop enclosure circumscribing the base, and the loop enclosure being collapsible to a stackable folded state having a thickness of about two of the walls thereof. Thus, independent Claims 1, 7, 12, 17, and 21 are not rendered obvious by any of the cited references. Under principles of claim dependency and for at least the reasons stated above, Dahl and the Tegg et al. patents do not render obvious any of the dependent claims as well. Therefore, it is respectfully submitted that the rejection of Claims 1-2, 5, 7, 10, 12, 15, 17 and 21 is improper as a matter of law.

Issue No. 2

The rejection of Claims 3, 8 and 13 under 35 U.S.C. §103(a) as being unpatentable over the art as applied to Claim 1 above, and further in view of the teachings of Braxton '836 as improper as a matter of law.

The teachings of each of the cited references in the rejection are set forth under Issue No. 1 and for purposes of brevity will not be repeated herein. However, the differences between Appellant's invention and the prior art references cited by the Examiner in the rejection of Claims 3, 8 and 13 are quite clear. Again, as set forth in the previous issue, the solutions taught by each of the references are directed to problems in some case some what different than that described in Appellant's invention. As earlier stated, Dahl is directed to the inability of temporary privies to be easily portable due to its construction. Further, Tegg et al. is directed to the limitation of the number of units of these portable toilets that can be transported in an assembled condition while also be concerned with the inability to replace

damaged sections of the units without incurring high costs. Braxton, '836 is also concerned with the inefficiencies of shipping fully assembled portable toilets and the high costs associated therewith. Although each reference is recognized that transportation is a general problem, each reference provides a significantly different solution to such problem. Now, for the Examiner to suggest that the teachings of Dahl be combined with those of Tegg, as well as Braxton '836 in an attempt to obviate Appellant's invention, it is amply clear from each of the individual references that the suggested combination could not result in Appellant's invention for the simple reason that in the first place, Tegg et al. suggests a knock-down commode made of individual multiple pieces which are assembled on-site while Dahl teaches the use of a collapsible enclosure which collapses into a single stack of eight wall sections such that a stack is light enough and of small enough dimensions to be carried by a passenger automobile and, therefore, may serve for family use, as well as for industrial use. Further, Dahl clearly teaches that it is "highly desirable to have all eight walls of the wall sections interconnected to provide insurance against any section becoming separated and misplaced or lost. Such interconnection is also desirable to maintain the desired relationships among the various sections to prevent confusion that maybe caused by one section being inadvertently moved out of its normal place in the eight section assembly." Accordingly, if the objectives of each of these references are contrary to each other and therefore there is absolutely no motivation, suggestion, or inference whatsoever to combine these teachings of the two references in an attempt to obviate Appellant's invention. Further combining the teachings of Braxton '836, additionally confuses the situation since Braxton teaches the use of a bi-fold type collapse resulting in four layers while Dahl requires the stack to be in eight layers so that the stack is

light enough and small enough to be carried by a passenger automobile and therefore, serve for family use, as well as industrial use. How this is to be accomplished is nowhere reflected in the Examiner's final Action and in fact, the Examiner at page 3 of the final Action in the last paragraph thereof seems to suggest that the Appellant's invention is nothing more than to provide a "one portable privy not having a floor, with the floor as taught by another portable privy." Clearly, that is not the case as set forth in previous arguments. Here, the Appellant is concerned with the cost of transporting these privies and is teaching in his current invention the most efficient and cost effective way to transport these portable toilet shelters from one location to another as recognized significant cost advantages with the current invention as set forth in page 4 of the specification thereof. The statement on page 3 of the final Action that various states of folding argued by the Appellant are nothing more than intended use and do not define this apparatus claimed environment is absolutely incorrect in view of the fact that it is clear that each and every independent claim has been set forth in element by element format with the appropriate structural interrelationship between elements in order to particularly point out and distinctly claim the subject matter which the Appellant regards as the invention. In independent Claims 1, 7, 12 and 21, the body of the claim apart from the introductory clause completely defines the subject matter of the invention. Certainly, each independent claim can clearly be read by a person skilled in the art without reference to the functional language within each element and the function of the various elements of the portable toilet shelter can be understood only with reference to the interrelationship of the elements to each other. Further, the inventive quality of the portable toilet shelter in part arises from the positioning of the elements of the portable toilet shelter with respect to each other. The functional language

referred to by the Examiner within each of the elements give life and meaning to the claims as a whole and accordingly, it is not well taken that the Examiner considers this language to be nothing more than intended uses states. By the statement, the Examiner is completely neglecting the element-by-element recitation of the invention with appropriate structural interrelationship to particularly point out and distinctly claim the subject matter which the inventor regards as the invention.

Even if the combination as suggested by the Examiner is somehow accomplishable in an attempt to find Claims 3, 8 and 17 obvious, Appellant's claims set forth unobvious structural features over the proposed combination. Accordingly, the combination would necessarily constitute claimed subject matter that is different and patentably distinct over the teachings of the prior art references. One of ordinary skill in the art would have no basis whatsoever for combining the teachings of Dahl, Tegg et al., or/and Braxton '836 in order to attempt to obviate Appellant's invention, because there is no suggestion, motivation or implication in this prior art to do so. It is well settled patent law that a sustainable obviousness rejection requires some teachings, suggestions or motivations to combine references in order to obviate Appellant's invention. Here, the Examiner fails to set forth any prima facie showing of obviousness since the final Office Action merely concludes that the motivation is the fact that with Dahl and Tegg teach knock-down type portable privies in spite of the fact that they teach opposite to each other since Dahl prefers interconnection of the wall sections to provide insurance against any section becoming separated and misplaced or lost while Tegg et al. teaches individual wall sections that may be put together using camlocks engageable with slots in adjacent wall sections. How the teachings of Braxton '836 is to be

used to provide the motivation to obviate Appellant's invention is just not understood since Braxton clearly as set forth in the background and the history of the current application requires a bi-fold type arrangement resulting in a four layer stack. The fact that the references teach portable toilets is not, by itself, sufficient to selectively substitute parts of one reference with parts of another to meet Appellant's novel invention as claimed. Moreover, the Office Action does not set forth any principle with a specific understanding within the level of ordinary skill in the art that would have motivated a skilled artisan to even attempt to combine these cited references. Appellant respectfully submits that the Office Action's lack of indication anywhere in the record of the finding in the cited references of the suggestions for desirability for a person skilled in the art to proceed contrary to the teachings of Dahl, and in fact, completely disregards the eight layer folded unit as set forth in the disclosure of Dahl so as to attempt to create Appellant's invention as claimed.

Regardless of the lack of the proper suggestion in the Office Action, the cited references themselves contain no suggestion whatsoever for combining the references that teach the invention as claimed according to the Appellant's disclosure. In other words, there is nothing in the references alone or together that suggest the claimed invention as a solution to the problem of a stackable enclosure with the significant cost savings experienced with Appellant's invention, and, in fact, it is indeed Appellant's invention which creates a simple efficient solution to such problem. Not a single applied reference mentions the problems associated with enclosures that need to be optimized for stackability. Significantly, the Appellant specifically identifies the four wall thickness of the collapsed structure of his own prior patent '836 as a problem to be solved. The Dahl enclosure teaches a collapsed enclosure having a

thickness of eight walls – four times as thick as Appellant’s current teachings and a latch means 60 extending from the outer wall of the eight wall stack. Therefore, absent recognition of the problems identified by the Appellant, it would be impossible for its solution to be obvious to anyone, and the cited references cannot possibly suggest, singularly or in combination, a novel solution as set forth in Appellant’s application. In view of the lack of showing by the Examiner of a clear factual basis so as to support a conclusion that the invention is obviated by the cited reference in the Office Action, a person of ordinary skill in the art would not seek to combine these references cited in the Office Action to produce the result that Appellant’s invention claims and teaches. It is only through Appellant’s own teaching and disclosure that one of ordinary skill in the art would appreciate the need for the portable toilet shelter having a base, a loop enclosure circumscribing the base, wherein the loop enclosure is collapsible to a stackable, folded state having a thickness of about two of the walls thereof in order to take advantage of significant cost savings in the transportation of these units. In other words, but for Appellant’s disclosure, there is no teaching, suggestion, or motivation whatsoever to combine the teachings of Dahl and the teachings of Tegg et al., as well as Braxton ‘836 in anyway whatsoever in order to obviate Appellant’s invention. Accordingly, Appellant respectfully asserts that the Office Action is an example of hind sight reconstruction in an attempt to obviate Appellant’s invention after having the benefit of reading Appellant’s disclosure. One cannot use hind sight reconstruction to pick and choose and isolate disclosures in the cited references to deprecate the claimed invention. Therefore, it is respectfully submitted that the rejection of Claims 3, 8 and 17 under 35 U.S.C. §103 is

improper as a matter of law and a reversal of the rejections of all the claims, is therefore, respectfully requested.

CONCLUSION

In view of the forgoing arguments, the undersigned attorney respectfully submits to this honorable Board that independent Claims 1, 7, 12, 17 and 21, as well as the dependent Claims 2-3, 5, 8, 10, 13, and 15 are clearly allowable as a matter of law. Therefore, Appellant's attorney respectfully requests that all of the Examiner's rejections under 35 U.S.C. §103 be reversed.

Respectfully submitted,

VANOPHEM & VANOPHEM, P.C.



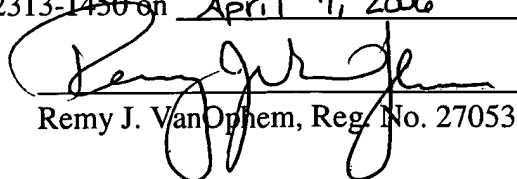
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Date: April 7, 2006



Remy J. VanOphem, Reg. No. 27053

CLAIM APPENDIX

1. A portable toilet shelter comprising:
 - a base; and
 - a loop enclosure circumscribing said base, said loop enclosure comprising:
 - opposed planar end walls, each end wall having longitudinally oriented opposed side edges;
 - opposed planar side walls between said planar opposed end walls, each of said planar side walls having longitudinally oriented opposed side edges; and
 - means for movably connecting said longitudinally oriented opposed side edges of said planar side walls to said longitudinally oriented opposed side edges of said end walls such that said opposed planar end walls and said opposed planar side walls complete said loop enclosure;
- said portable toilet shelter being in a partially disassembled folded state when said loop enclosure is collapsed, wherein one each of said opposed planar end walls is in direct contact with at least a portion of a respective one of said planar side walls, said loop enclosure being collapsible to a stackable folded planar state having a thickness one each of said planar end walls and one each of said planar side walls for transporting said portable toilet shelter;
- said portable toilet shelter being in a partially erected state when said planar end walls are in an unfolded position respectively away from said planar side walls and

said loop enclosure is in an upright and self-supporting position, wherein said planar side walls are substantially parallel to one another and said planar end walls are also substantially parallel to one another, such that said planar side walls are substantially transverse to said planar end walls.

2. The portable toilet shelter as claimed in claim 1, wherein said means for movably connecting comprises at least one flexible hinge fastened to respective longitudinally oriented side edges of said planar end and planar side walls.

3. The portable toilet shelter as claimed in claim 2, wherein said at least one flexible hinge is riveted to respective longitudinally oriented side edges of said planar end and planar side walls.

5. The portable toilet shelter as claimed in claim 1, further comprising a commode mounted to said base within said loop enclosure.

7. A portable toilet shelter comprising:
a base; and
a loop enclosure circumscribing said base, said loop enclosure comprising:

planar front and planar back end walls, each of said planar front and back end walls having disposed thereon opposed longitudinally oriented side edges, opposed longitudinal ends, and an inward surface;

opposed planar side walls between said planar front and planar back end walls, each of said planar side walls having disposed thereon opposed longitudinally oriented side edges, opposed longitudinal ends, and an inward surface; and

a plurality of flexible hinge strips connecting said longitudinally oriented side edges of said planar side walls to respectively adjacent edges of said longitudinally oriented side edges of said planar front and planar back end walls such that said planar end walls and said planar side walls complete said loop enclosure and said longitudinal oriented side ends of said planar end walls and said planar side walls collectively define opposed longitudinal oriented corner ends of said loop enclosure;

said loop enclosure being collapsible to a stackable folded planar state having a thickness of about one each of said planar front and planar back end walls and one each of said planar side walls for transporting said toilet shelter;

whereby one of said plurality of flexible hinge strips connected to said planar front end wall is foldable to move said planar front end wall against a respective one of said planar side walls and further whereby another of said plurality of flexible hinge strips connected to said planar back end wall is foldable to move said planar back end wall against a respective other of said planar side walls to collapse said loop enclosure, further whereby said planar front and planar back end walls are unfoldable respectively away from said planar side walls such that said loop enclosure is self-supporting when placed on one end of said opposed longitudinal ends thereof.

8. The portable toilet shelter as claimed in claim 7, wherein said plurality of flexible hinge strips are riveted to respective opposed edges of said planar front and planar back end walls and said planar side walls.

10. The portable toilet shelter as claimed in claim 7, further comprising a commode mounted to said base within said loop enclosure.

12. A portable toilet shelter comprising:

a base;

a loop enclosure circumscribing said base, said loop enclosure being foldable to a planar collapsed condition and unfoldable to a self-supporting condition, said loop enclosure comprising:

a planar front end wall having disposed thereon left and right edges, top and bottom longitudinal ends, and an inward surface, said planar front end wall further having a door opening therethrough;

an oppositely disposed planar back end wall having disposed thereon left and right edges, top and bottom longitudinal ends, and an inward surface;

a planar right side wall between said planar front end and planar back end walls, said planar right side wall having disposed thereon opposed front and back edges, top and bottom longitudinal ends, and an inward surface;

a planar left side wall between said planar front end and planar back end walls, said planar left side wall having disposed thereon opposed front and back edges, top and bottom longitudinal ends, and an inward surface;

said longitudinal ends of said planar side and planar end walls collectively define longitudinal ends of said loop enclosure;

a plurality of flexible hinge strips, said plurality of hinge strips connecting said right edge of said planar front panel to said front edge of said planar right side wall, said back edge of said planar right side wall to said right edge of said planar back end wall, said left edge of said planar back end wall to said back edge of said planar left side wall,

and said front edge of said planar left side wall to said left edge of said planar front wall, thereby completing said loop enclosure;

said loop enclosure being collapsible to a stackable folded ~~flat~~ planar state having a thickness of about one each of said planar front and planar back end walls and one each of said planar right and planar left side walls for transporting said portable toilet shelter;

whereby said planar front and planar back end walls are foldable with respect to each other toward said side walls such that said inside surfaces of said planar front and planar back end walls respectively overlay said inside surfaces of said planar right and planar left side walls to collapse said loop enclosure, and further whereby said planar front and planar back end walls are unfoldable respectively away from said planar right and planar left side walls such that said loop enclosure is self-supporting when placed on one end of said opposed longitudinal ends thereof; and

a roof mounted to the other of said longitudinal ends of said loop enclosure.

13. The portable toilet shelter as claimed in claim 12, wherein said plurality of flexible hinge strips are riveted to respective edges of said planar end and side walls.

15. The portable toilet shelter as claimed in claim 12, further comprising a commode mounted to said base within said loop enclosure.

17. A portable toilet shelter adapted to be collapsed to facilitate transportation thereof, said portable toilet shelter having a base and a roof, said portable toilet shelter further comprising:

a substantially loop-like enclosure circumscribing said base, said substantially loop-like enclosure being divided into four substantially equal longitudinally planar upright sections; and

a plurality of hinge members, one of said plurality of hinge members being interposed each of said four substantially equal longitudinally planar upright sections;

said loop-like enclosure being collapsible to a stackable folded planar state having a thickness of about two of said four substantially equal longitudinally planar upright sections for transporting said portable toilet shelter;

whereby when said portable toilet shelter is collapsed, two of said four substantially equal longitudinally planar upright sections are in side by side relationship disposed atop another two of said four substantially equal longitudinally planar upright sections, such that an increased number of said portable toilet shelters may be transported when in said collapsed state.

21. A portable toilet shelter comprising:

a base; and

a loop enclosure circumscribing said base, said loop enclosure comprising:

opposed planar end walls, each end wall having longitudinally oriented opposed side edges;

opposed planar side walls between said planar opposed end walls, each of said planar side walls having longitudinally oriented opposed side edges; and

means for connecting said longitudinally oriented opposed side edges of said planar side walls to said longitudinally oriented opposed side edges of said planar end walls such that said planar end walls and said planar side walls complete said loop enclosure, said means for connecting comprising a plurality of flexible hinge strips;

said portable toilet shelter being in a partially disassembled folded state when said loop enclosure is collapsed, wherein said planar end walls are in a folded position respectively against said planar side walls, such that each of said planar end walls is in direct contact with a respective one of said planar side walls, said loop enclosure being collapsible to a stackable folded planar state having a thickness of one each of said planar end walls and one each of said planar side walls for transporting said portable toilet shelter, said planar state defining an upper planar surface comprised of an outer surface of a planar end wall and an outer surface of a planar side wall with one of said plurality of flexible hinge strips attached to each longitudinal opposed side edges of each of said walls, said one of said plurality of flexible hinge strips attached to each opposed side edges of each said wall in said folded planar state whereby a second collapsed loop enclosure laid on said folded planar state of said loop enclosure maintains a substantially horizontally disposed stackable position;

said portable toilet shelter being in a partially erected state when said planar end walls are in an unfolded position respectively away from said planar side walls and said loop enclosure is in an upright and self-supporting position, wherein said planar side walls are substantially parallel to one another and said planar end walls are also substantially parallel to one another, such that said planar side walls are substantially transverse to said planar end walls.

Evidence Appendix

Not applicable.

Related Proceedings Appendix

Not applicable.

Claim Chart for U.S. Patent Application Serial No. 10/034,720

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| Claim 1: A portable toilet shelter comprising: | |
| a base; and | Page 6, line 21, line 2 of latest amendment |
| a loop enclosure circumscribing said base, said loop enclosure comprising: |)Page 6, lines 21-22, }lines 2-4 of latest)amendment |
| opposed planar end walls, each end wall having longitudinally oriented opposed side edges; | Page 7, line 11, line 2 of latest amendment & Fig. 3 Page 8, lines 13-15 |
| opposed planar side walls between said planar opposed end walls, each of said planar side walls having longitudinally oriented opposed side edges; and |)Page 7, lines 10-11 }line 3 of latest)amendment & Fig. 3 Fig. 3 Page 8, lines 17-21 |
| means for moveably connecting said longitudinally oriented opposed side edges of said planar side walls to said longitudinally oriented opposed side edges of said end walls such that said opposed planar end walls and said opposed planar side walls complete said loop enclosure; |) }Lines 3-5 of latest)amendment) }Fig. 7) |
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| <p>said portable toilet shelter being in a partially disassembled folded state when said loop enclosure is collapsed,</p> <p>wherein one each of said opposed planar end walls is in direct contact with at least a portion of a respective one of said planar side walls,</p> <p>said loop enclosure being collapsible to a stackable folded planar state having a thickness one each of said planar end walls and one each of said planar sidewalls for transporting said portable toilet shelter;</p> | <p>)</p> <p>}Page 10, lines 14-22</p> <p>)</p> <p>)</p> <p>}Page 10, lines 18-22</p> <p>)</p> <p>Figs. 8 & 9</p> |
| <p>said portable toilet shelter being in a partially erected state when said planar end walls are in an unfolded position respectively away from said planar side walls and said loop enclosure is in an upright and self-supporting position,</p> <p>wherein said planar side walls are substantially parallel to one another and said planar end walls are also substantially parallel to one another, such that said planar side walls are substantially transverse to said planar end walls.</p> | <p>)</p> <p>)</p> <p>}Page 11, lines 9-21</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>} Fig. 3</p> <p>)</p> <p>)</p> |
| <p>Claim 2:</p> <p>The portable toilet shelter as claimed in Claim 1, wherein said means for movably connecting comprises at least one flexible hinge</p> <p>fastened to respectively longitudinally oriented side edges of said planar end and planar side walls.</p> | <p>)</p> <p>} Figs. 2 & 7</p> <p>)</p> <p>)</p> |

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| <p>Claim 3:</p> <p>The portable toilet shelter as claimed in Claim 2, wherein said at least one flexible hinge is riveted to respective longitudinally oriented side edges of said planar end and planar side walls.</p> | <p>)</p> <p>}Page 6, lines 13-16</p> <p>) & Fig. 2</p> <p>)</p> |
| Claim 4 (withdrawn) | |
| <p>Claim 5:</p> <p>The portable toilet shelter as claimed in Claim 1, further comprising</p> <p>a commode</p> <p>mounted to said base within said loop enclosure.</p> | <p>Page 6, lines 13-16 & Fig. 2</p> |
| Claim 6 (canceled) | |
| <p>Claim 7:</p> <p>A portable toilet shelter comprising:</p> <p>a base; and</p> | <p>Page 6, line 21 & line 2 of latest amendment</p> |
| <p>a loop enclosure</p> <p>circumscribing said base, said loop enclosure comprising,</p> <p>planar front and planar back end walls,</p> <p>each of said planar front and back end walls having disposed thereon</p> <p>opposed longitudinally oriented side edges,</p> <p>opposed longitudinal ends, and</p> <p>an inward surface;</p> | <p>}Page 6, lines 21-22</p> <p>)& lines 2-4 of latest amendment</p> <p>Page 7, lines 10-11</p> <p>Page 8, lines 10-13</p> <p>Page 8, line 14</p> <p>Page 8, line 15</p> |
| <p>opposed planar side walls</p> <p>between said planar front and planar</p> | <p>Page 8, line 17</p> |

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| <p>back end walls, each of said planar side walls having disposed thereon opposed longitudinally oriented side edges, opposed longitudinal ends, and an inward surface; and</p> | <p>Page 8, line 19 Page 8, lines 19-20 Page 8, line 20</p> |
| <p>a plurality of flexible hinge strips connecting said longitudinally oriented side edges of said planar side walls to respectively adjacent edges of said longitudinally oriented side edges of said planar front and planar back end walls</p> | <p>Page 9, lines 6-7)))Page 9, lines 6-10 &) Fig. 6)</p> |
| <p>such that said planar end walls and said planar side walls complete said loop enclosure and said longitudinal oriented side ends of said planar end walls and said planar side walls collectively define opposed longitudinal oriented corner ends of said loop enclosure;</p> | <p>))Page 9, lines 6-7 &)& Figs 6 & 7</p> |
| <p>said loop enclosure being collapsible to a stackable folded planar state having a thickness of about one each of said planar front and planar back end walls and one each of said planar side walls for transporting said toilet shelter;</p> | <p>))Page 10, lines 14-22)& Figs. 8 & 9))</p> |
| <p>whereby one of said plurality of flexible hinge strips connected to said planar front end wall is</p> | <p>))</p> |

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| <p>foldable to move said planar front end wall against a respective one of said planar side walls and further whereby another of said plurality of flexible hinge strips connected to said planar back end wall is foldable to move said planar back end wall against a respective other of said planar</p> <p>said walls to collapse said loop enclosure, further whereby said planar front and planar back end walls are unfoldable respectively away from said planar side walls such that said loop enclosure is self-supporting when placed on one end of said opposed longitudinal ends thereof.</p> | <p>)</p> <p>}Page 10, lines 14-22</p> <p>) & Figs. 8 & 9</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> |
| <p>Claim 8:</p> <p>The portable toilet shelter as claimed in Claim 7, wherein said plurality of flexible hinge strips are riveted to respective opposed edges of said planar front and planar back end walls and said planar side wall.</p> | <p>Page 6, lines 13-16 & Fig. 2</p> |
| <p>Claim 9 (withdrawn)</p> | |
| <p>Claim 10:</p> <p>The portable toilet shelter as claimed in Claim 7, further comprising</p> <p>a commode</p> <p>mounted to said base within said loop enclosure.</p> | <p>Page 6, lines 20-22 & lines 1-4 of latest amendment</p> |
| <p>Claim 11 (canceled)</p> | |
| <p>Claim 12:</p> <p>A portable toilet shelter comprising:</p> | <p>Page 6, line 21 & line</p> |

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| a base; | 2 of latest amendment |
| a loop enclosure circumscribing said base, said loop enclosure being foldable to a planar collapsed condition and unfoldable to a self-supporting condition, | }Page 6, line 21 & }line 2 of latest amendment) }Page 10, lines 14-22 }& Figs. 8 & 9 |
| said loop enclosure comprising: a planar front end wall having disposed thereon left and right edges, top and bottom longitudinal ends, and an inward surface, said planar front end wall further having a door opening therethrough; | Page 7, lines 10-11 Page 8, lines 13-15 Page 8, line 14 Page 8, line 15 }Page 7, lines 15-17) |
| an oppositely disposed planar back end wall having disposed thereon left and right edges, top and bottom longitudinal ends, and an inward surface; | Page 7, lines 10-11 Page 8, lines 10-13 Page 8, line 14 Page 8, line 15 |
| a planar right side wall between said planar front end and planar back end walls, said planar right side wall having disposed thereon opposed front and back edges, top and bottom longitudinal ends, and an inward surface; | Page 8, line 17) } Figs 6 & 7) Page 8, line 19 Page 8, lines 19-20 Page 8, line 20 |

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| <p>a planar left side wall</p> <p>between said planar front end and planar back end walls, said planar left side wall having disposed thereon</p> <p>opposed front and back edges,</p> <p>top and bottom longitudinal ends, and</p> <p>an inward surface;</p> | <p>Page 8, lines 17</p> <p>)</p> <p>}Figs. 6 & 7</p> <p>)</p> <p>Page 9, line 19</p> <p>Page 8, lines 19-20</p> <p>Page 8, line 20</p> |
| <p>said longitudinal ends of said planar side and planar end walls collectively define longitudinal ends of said loop enclosure;</p> | <p>)</p> <p>}Page 9, lines 6-7 &</p> <p>)Figs. 6 & 7</p> |
| <p>a plurality of flexible hinge strips, said plurality of hinge strips</p> <p>connecting said right edge of said planar front panel to said front edge of said planar right side wall,</p> <p>said back edge of said planar right side wall to said right edge of said planar back end wall,</p> <p>said left edge of said planar back end wall to said back edge of said planar left side wall, and said front edge of said planar left side wall to</p> <p>said left edge of said planar front wall,</p> <p>thereby completing said loop enclosure;</p> | <p>Page 9, lines 6-7</p> <p>)</p> <p>}Page 8, lines 21-24</p> <p>)</p> <p>)</p> <p>}Page 8, lines 23-24</p> <p>)& Page 9, line 1</p> <p>)</p> <p>}Page 9, lines 1-3</p> <p>)</p> <p>}Page 9, lines 3-5</p> <p>)</p> |
| <p>said loop enclosure being collapsible to a stackable folded planar state having a thickness of about</p> | <p>)</p> <p>)Page 10, lines 14-22</p> |

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| one each of said planar front and planar back end walls and one each of said planar right and planar left side walls for transporting said portable toilet shelter; | }& Figs. 8 & 9)) |
| whereby said planar front and planar back end walls are foldable with respect to each other towards said side walls such that said inside surfaces of said planar front and planar back end walls respectively overlay said inside surfaces of said planar right and planar left side walls to collapse said loop enclosure, and further whereby said planar front and planar back end walls are unfoldable respectively away from said planar right and planar left side walls such that said loop enclosure is self-supporting when placed on one end of said opposed longitudinal end thereof; and |)) }Page 10, lines 14-22) & Figs. 8 & 9)))) }Page 11, lines 9-21) & Figs. 8 & 9)) |
| a roof mounted to the other of said longitudinal ends of said loop enclosure. | }Page 9, lines 22-24)& Page 10, lines 1-5 |
| Claim 13: The portable toilet shelter as claimed in Claim 12, wherein said plurality of flexible hinge strips are riveted to respective edges of said planar end and side walls. | Page 6, lines 13-16 & Fig. 2 |
| Claim 14 (withdrawn) | |
| Claim 15: | |

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| <p>The portable toilet shelter as claimed in Claim 12, further comprising</p> <p>a commode</p> <p>mounted to said base within said loop enclosure.</p> | <p>Page 6, lines 20-22 & lines 1-4 of latest amendment</p> |
| Claim 16 (canceled) | |
| <p>Claim 17:</p> <p>A portable toilet shelter adapted to be collapsed to facilitate transportation thereof, said portable toilet shelter having</p> | |
| <p>a base and</p> <p>a roof, said portable toilet shelter further comprising:</p> | <p>Page 6, line 21 & line 2 of latest amendment</p> <p>Page 9, lines 22-24</p> |
| <p>a substantially loop-like enclosure</p> <p>circumscribing said base,</p> <p>said substantially loop-like enclosure</p> <p>being divided into four substantially equal longitudinally planar upright sections; and</p> | <p>Page 6, lines 21-22 & lines 2-4 of latest amendment</p> <p>)</p> <p>}Page 9, lines 10-15</p> <p>)& Figs. 6 & 7</p> |
| <p>a plurality of hinge members,</p> <p>one of said plurality of hinge members being interposed each of said four substantially equal longitudinally planar upright sections;</p> | <p>Page 9, lines 6-7</p> <p>)</p> <p>}Page 9, lines 10-15</p> <p>)</p> |
| <p>said loop-like enclosure being collapsible to a stackable folded planar state having a thickness of about two of said four substantially equal longitudinally</p> | <p>)</p> <p>}Page 10, lines 14-22</p> <p>)& Figs. 8 & 9</p> |

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| planar upright sections for transporting said portable toilet shelter; |)) |
| whereby when said portable toilet shelter is collapsed, two of said four substantially equal longitudinally planar upright sections are in a side by side relationship disposed atop another two of said four substantially equal longitudinally planar upright sections, |)))Page 10, lines 14-22)& Figs. 8 & 9)) |
| such that an increase number of said portable toilet shelters may be transported when in said collapsed state. |))Page 4, lines 17-22) |
| Claim 18 (withdrawn) | |
| Claim 19 (withdrawn) | |
| Claim 20 (withdrawn) | |
| Claim 21: A portable toilet shelter comprising: a base; and | Page 6, line 21 & line 2 of latest amendment |
| a loop enclosure circumscribing said base, said loop enclosure comprising: | Page 6, lines 21-22 & lines 2-4 of latest amendment |
| opposed planar end walls, each end wall having longitudinally oriented opposed side edges; | Page 7, lines 10-11 Page 8, lines 13-15 |
| opposed planar side walls between said planar opposed end walls, each of said planar side walls having | Page 8, line 17 Figs. 6 & 7 |

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| <p>longitudinally oriented opposed side edges; and means for connecting said longitudinally oriented opposed side edges of said planar side walls to said longitudinally oriented opposed side edges of said planar end walls</p> <p>such that said planar end walls and said planar side walls complete said loop enclosure, said means for connecting comprising a plurality of flexible hinge strips;</p> | <p>Page 8, line 19) }Page 9, lines 6-7))</p> <p>Page 8, line 21 Page 9, line 5 Page 9, lines 6-7</p> |
| <p>said portable toilet shelter being in a partially disassembled folded state when said loop enclosure is collapsed, wherein said planar end walls are in a folded position respectively against said planar side walls,</p> <p>such that each of said planar end walls is in direct contact with a respective one of said planar side walls,</p> <p>said loop enclosure being collapsible to a stackable folded planar state having a thickness of one each of said planar end walls and one each of said planar side walls for transporting said portable toilet shelter,</p> <p>said planar state defining an upper planar surface comprised of an outer surface of a planar end wall and an outer surface of a planar side wall with one of said plurality of flexible hinge strips</p> | <p>) }Page 10, lines 14-22)& Figs. 8 & 9)</p> <p>)) }Page 10, lines 14-22)& Figs. 8 & 9)</p> <p>))) }Page 10, lines 16-22)& Fig. 9</p> |

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| <p>attached to each longitudinal opposed side edges of each of said walls,</p> <p>said one of said plurality of flexible hinge strips attached to each opposed side edges of each said wall in said folded planar state</p> | <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> |
| <p>whereby a second collapsed loop enclosure laid on said folded planar state of said loop enclosure maintains a substantially horizontally disposed stackable position;</p> | <p>Not shown</p> |
| <p>said portable toilet shelter being in partially erected state when said planar end walls are in an unfolded position respectively away from said planar side walls and said loop enclosure is in an upright and self-supporting position, wherein said planar side walls are substantially parallel to one another and said planar end walls are also substantially parallel to one another, such that said planar side walls are substantially transverse to said planar end walls.</p> | <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)Page 11, lines 9-23</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> |